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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**
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14 ROBERT COHEN, individually and on
behalf of all others similarly situated,

15 Plaintiff,
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17 vs.

18 SPROUTS FARMERS MARKET, INC.,
and DOES 1 through 10, inclusive, and
each of them,

19 Defendants.
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CASE NO.: 8:22-cv-01837 DOC (DFMx)

Honorable David O. Carter
Courtroom 10 A

**NOTICE OF MOTION AND MOTION
OF DEFENDANT SPROUTS
FARMERS MARKET, INC. TO
DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT**

[Filed concurrently with Memorandum of
Points and Authorities, Declaration of
Brandon Lombardi, and [Proposed] Order]

Date: January 9, 2023

Time: 8:30 a.m.

Place: Courtroom 10A

411 W. 4th Street

Santa Ana, CA 92701

Complaint Filed: September 6, 2022
Action Removed: November 7, 2022
Trial Date: None Set

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on January 9, 2023 at 8:30 a.m., or as soon thereafter as the matter may be heard, in Courtroom 10 A of the above-entitled court located at 411 West 4th Street, Room 1053, Santa Ana, CA 92701, before the Honorable David O. Carter, Defendant Sprouts Farmers Market, Inc. (“Defendant” or “Sprouts”) will, and hereby does, move this Court for an order dismissing the First Amended Complaint filed by Plaintiff Robert Cohen (“Plaintiff”) in its entirety pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(2) on the following grounds:

1. Plaintiff’s First Amended Complaint fails to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) because the conduct alleged—that Defendant printed the first six and last four digits of Plaintiff’s credit or debit card numbers on his receipts—does not constitute a violation of the Fair and Accurate Credit Transactions Act, 15 U.S.C. § 1681(c)(g)(1) (“FACTA”).

2. Plaintiff’s claim for knowing FACTA violations fails to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) because the boilerplate allegations speculating that Defendant knew of the existence of FACTA but did not take sufficient steps to ensure no violations would occur are insufficient to plead the required willfulness.

3. The Court lacks personal jurisdiction to decide the claims for FACTA violations that Plaintiff seeks to assert on behalf of unnamed non-California class members, pursuant to Rule 12(b)(2), because Defendant is not subject to California’s general jurisdiction, nor can there be subject matter jurisdiction over these class members’ claims based on alleged wrongful conduct occurring entirely outside of California.

This Motion is based on this Notice of Motion and Motion; the contemporaneously-filed Memorandum of Points and Authorities; Declaration of Brandon Lombardi; all other pleadings, papers, and records on file in this action; and such other written and oral arguments as may be presented to the Court at the hearing on this matter.

1 This Motion is being made following the conference of counsel pursuant to Local
2 Rule 7-3, which took place on November 21, 2022. The parties were unable to resolve the
3 issues raised herein.

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5 DATED: November 28, 2022

DORSEY & WHITNEY LLP
By: /s/Faisal M. Zubairi
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CERTIFICATE OF SERVICE

***Robert Cohen v. Sprouts Farmers Market, Inc.,
United States District Court for the Central District of California
Case No.: 8:22-cv-01837 DOC (DFMx)***

I hereby certify on November 28, 2022, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, Central District of California by using the CM/ECF System.

Participants in the case who are registered CM/ECF Users will be automatically served by the CM/ECF System.

DATED: November 28, 2022

DORSEY & WHITNEY LLP

By: /s/Faisal M. Zubairi
Faisal M. Zubairi